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10 *Attorneys for Plaintiff*
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13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

15 CHRISTOPHER TRAVIS, individually)
16 and derivatively on behalf of MILK)
RIVER HUNTING PRESERVE, LLC, a)
17 dissolved Montana limited liability)
company,)
18)

19 Plaintiff,

vs.

20 JOHN KEVIN MOORE, et al.,)
21)

22 Defendants.)
23)

Cause No.: CV-22-74-GF-BMM-JTJ

**STATEMENT OF UNDISPUTED
FACTS**

1 Pursuant to Local Rule 56(a)(1), Plaintiff Christopher Travis ("Travis"),
2 individually and derivatively on behalf of Milk River Hunting Preserve, LLC
3 ("Milk River"), submits his statement of undisputed facts in support of Plaintiff's
4 Motion for Partial Summary Judgment Quieting Title, filed concurrently herewith.
5

6 1. The real property that is the subject of this litigation (hereinafter the
7 "Subject Property") is located in Valley County, Montana, and is more accurately
8 described as follows:

9 **Township 28 North, Range 41 East, MPM**

10 Section 28: NW $\frac{1}{4}$ NW $\frac{1}{4}$

11 EXCEPTING THEREFROM the Railroad and Highway Right of
12 Way described as follows:

13 Beginning at the Northwest Section corner of Section 28; thence S.
14 0D 09' W. a distance of 330.00 feet along the west section line of said
15 Section 28 to the true point of beginning; thence S. 0D 09' W.
16 continuing along the section line a distance of 344.28 feet; thence S.
17 71D 44' 58" E. a distance of 1392.74 feet; thence N. 0D 13' 32" E.
18 along the 1/16 section line a distance of 334.88 feet; thence N. 71D
23' 18" W. along the Highway R/W line a distance of 696.00 feet to
highway station 503+00; thence N. 18D 36' 42" E. a distance of 20
feet; thence N. 71D 23' 18" W. along the Highway R/W line a
distance of 700.11 feet to the point of true beginning.

19 ALSO EXCEPTING therefrom all of the lands north of the U.S.
20 Highway No. 2 located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28, Township 28
21 North, Range 41 East, MPM. (Deed reference: Book 124 Deeds page
852, Doc. No. 36749)

22 EXCEPTING therefrom lands conveyed to the State of Montana
23 Highway Commission and more particularly described in book 65 of
Deeds on pages 613-614.

1 Section 28: A strip or piece of land 185 feet wide in the E½NW¼ lying between
2 two lines parallel to and distant respectively, 75 feet and 260 feet
3 southwesterly, measured at right angles, from the center line of the
4 main track of the railway of the Great Northern (now Burlington
Northern) Railway Company, as now located and constructed. (Deed
reference book 63 MRE pages 27-28).

5 Section 29: All that part of the right of way of the railway of Great Northern, now
6 Burlington Northern, lying between two lines parallel to and distant,
7 respectively, 75 feet and 260 feet Southwesterly, measured at right
8 angles from the centerline of the railway of the Great Northern
9 Railway (now Burlington Northern) Company, as now located and
10 constructed and extending from the East line of said Section 29
Northwesterly to a line drawn at a right angle to said centerline of
11 railway at a point therein distant Northwesterly 800 feet, measured
along said center line, from its intersection with the East line of said
Section 29. (Deed reference book 61 MRE pages 323-328)

12 Section 29: Lots 6, 7, 13, 15, S½NE¼

13 Section 29: Lots 1, 2, 5, 8, 10, 11, N½NE¼ less railroad and highway right-of-
14 way

15 Section 30: Lot 23

16 **Township 28 North, Range 41 East, MPM**

17 Section 28: Lots 2, 3, 8, 10, SW¼NW¼, NW¼SW¼
18 EXCEPTING from Lot 2 a tract of land more particularly described in
19 book 17 of Deeds on pages 42-43, Doc. No. 53396 – to Great
Northern Railway Company.

20 See Schedule A to Litigation Guarantee, attached hereto as **Exhibit 1**.

21 2. On or about October 25, 2001, Plaintiff Travis, Defendant John Kevin
22 Moore (“Moore”), William Mihram, and Otto Kruppa, dba Aspen Group LTD,
23 entered into a Contract for Deed with James David Girtman and Mildred E.

1 Girtman for the purchase of the following lands located in Valley County,
2 Montana, to wit:

3 Township 28 North, Range 41 East, MPM

4 Section 28: NW $\frac{1}{4}$ NW $\frac{1}{4}$ (less railroad and highway rights of way), and

5
6 A strip or piece of land 185 feet wide in the E $\frac{1}{2}$ NW $\frac{1}{4}$ lying between
7 two lines parallel to and distant respectively, 75 feet and 260 feet
8 southwesterly, measured at right angles, from the center line of the
9 main track of the railway of the Great Northern (now Burlington
Northern) Railway Company, as now located and constructed. (Deed
reference book 63 MRE pages 27-28)

10 Section 29: Lots 1, 2, 5, 6, 7, 8, 10, 11, 13, 15, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ less railroad and
11 highway right-of-way, and

12 All that part of the right of way of the railway of Great Northern, now
13 Burlington Northern, lying between two lines parallel to and distant,
14 respectively, 75 feet and 260 feet Southwesterly, measured at right
15 angles from the centerline of the railway of the Great Northern
16 Railway (now Burlington Northern) Company, as now located and
17 constructed and extending from the East line of said Section 29
Northwesterly to a line drawn at a right angle to said centerline of
railway at a point therein distant Northwesterly 800 feet, measured
along said center line, from its intersection with the East line of said
Section 29. (Deed reference book 61 MRE pages 323-328)

18 Section 30: Lot 23

19 See Warranty Deed (Oct. 25, 2001), attached hereto as **Exhibit 2**; letter from Sissy
20 Girtman (June 20, 2021), attached hereto as **Exhibit 3**.

21
22 3. On or about September 3, 2003, William Mihram quitclaimed his
23 interest in the Contract for Deed to Moore. See Quitclaim Deed (Sept. 3, 2003),
attached hereto as **Exhibit 4**.

1 4. On or about September 9, 2003, Otto Kroupa (sic) c/o Aspen Group
2 quitclaimed his interest in the Contract for Deed to Moore. *See* Quitclaim Deed
3 (Sept. 9, 2003), attached hereto as **Exhibit 5**.

4 5. On October 8, 2003, Travis, Moore, and Defendant Kirk Scoggins
5 filed Articles of Organization to establish Milk River Hunting Preserve, LLC, as a
6 member managed limited liability company. *See* Articles of Organization (Oct. 8,
7 2003), attached hereto as **Exhibit 6**.

8 6. On or about October 29, 2003, Moore assigned his interest in the
9 Contract for Deed to Milk River. *See* Assignment (Oct. 29, 2003), attached hereto
10 as **Exhibit 7**.

11 7. On or about October 29, 2003, Scoggins/Go Big Mountain Ventures
12 assigned any interest he had in the Contract for Deed to Milk River. *See*
13 Assignment (Oct. 29, 2003), attached hereto as **Exhibit 8**.

14 8. On or about November 6, 2003, Travis assigned his interest in the
15 Contract for Deed to Milk River. *See* Assignment (Nov. 6, 2003), attached hereto
16 as **Exhibit 9**.

17 9. Milk River satisfied its obligations under the Contract for Deed.
18 Accordingly, a Warranty Deed for the lands subject to the Contract for Deed was
19 recorded on March 18, 2004, as Document No. 124634 in the office of the Clerk
20 and Recorder of Valley County. *See* **Exhibit 2**.

1 10. On or about December 5, 2006, Milk River acquired an additional 200
2 acres of land by way of a Warranty Deed from Russell Gilbertson, as Grantor,
3 recorded as Document No. 132582 in the office of the Clerk and Recorder of
4 Valley County, which conveyed to Milk River the following lands located in
5 Valley County, Montana, to wit:

6 Township 28 North, Range 41 East

7 Section 28: Lots 2, 3, 8, 10, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$

8 EXCEPTING from Lot 2 a tract of land more particularly described in
9 book 17 of Deeds on pages 42-43, Doc. No. 53396 – to Great
10 Northern Railway Company.

11 *See* Warranty Deed (Dec. 5, 2006), attached hereto as **Exhibit 10**.

12 11. Milk River was administratively dissolved by the Montana Secretary
13 of State on December 1, 2011, for its failure to file annual reports. *See* 2011
14 Involuntary Dissolution Notice, attached hereto as **Exhibit 11**.

15 12. On July 20, 2018, Moore, through his Agent and Attorney-in-Fact
16 Tom Colligan, purported to Quit Claim all of his ownership interest in Milk River
17 to Daytronics, LLC, an Idaho limited liability company, pursuant to a “Quitclaim
18 of Corporate Interest.” *See* Quitclaim of Corporate Interest (July 20, 2018),
19 attached hereto as **Exhibit 12**.

20 13. On or about May 5, 2021, the United States Department of Justice
21 filed a Notice of Lien for Fine and/or Restitution against Defendant Moore under
22 Document No. 173306 in the office of the Clerk and Recorder for Valley County.
23

1 The lien is in the amount of \$2,224,917.00. *See* Notice of Lien, attached hereto as
2 **Exhibit 13.**

3 14. In September or October of 2016, Moore, on behalf of Milk River but
4 without the knowledge or authority of its other members, entered into an
5 agricultural lease with Russ Gilbertson for a term of five years for \$25,000, all paid
6 up front. More than five years have elapsed since the entering into of the Lease.
7 *See* Defendant Kevin Moore's Responses to Plaintiff's First Set of Requests for
8 Admission, pp. 3-4 (June 1, 2023), attached hereto as **Exhibit 14.**

9
10 15. On August 3, 2018, Moore was found guilty on twenty-one federal
11 charges after a jury trial. He was ordered to pay \$2,222,817 to his victims in
12 restitution and \$1,926,725 in forfeiture to the United States government. He was
13 thereafter sentenced to ten years and five months in federal prison. (ECF 85, ¶ 34.)

14
15 16. Default on Plaintiff's Complaint to Quiet Title was entered against
16 Daytronics, on August 31, 2022. (ECF 14.)

17
18 17. Default on Plaintiff's Complaint to Quiet Title was entered against
19 Defendant Steven Shrader, d/b/a Daytronics, on August 31, 2022. (ECF 15.)

20
21 18. Default on Plaintiff's Complaint to Quiet Title was entered against
22 Defendant Steven Shrader, d/b/a Daytronics, on August 31, 2022. (ECF 16.)

23
19. Default on Plaintiff's Complaint to Quiet Title was entered against
Defendant Kirk Scoggins on September 27, 2022. (ECF 27.)

1 20. Default on Plaintiff's Complaint to Quiet Title was entered against
2 Defendant Michael Welcome on October 26, 2022. (ECF 42.)

3 21. Default on Plaintiff's Complaint to Quiet Title was entered against all
4 Unknown Defendants on October 26, 2022. (ECF 43.)

5 22. On August 26, 2022, Plaintiff filed a Lis Pendens with the Clerk and
6 Recorder of Valley County, Montana, under Document No. 178923. *See* Lis
7 Pendens (Aug. 26, 2022), attached hereto as **Exhibit 15**.

8 23. Defendant Moore admitted in his Answer to Verified Complaint and
9 Demand for Jury Trial that the Subject Property is owned in fee simply by Milk
10 River Hunting Preserve, LLC. (ECF 85, ¶ 12.)

11 24. As a result of the lien filed by the United States, Plaintiff was required
12 by the local title company to name the United States Department of Justice in its
13 complaint to quiet title to the Subject Property. *See* Schedule C to Litigation
14 Guarantee, attached hereto as **Exhibit 1**.

15 25. Section 3.1 of the Operating Agreement of Milk River Hunting
16 Preserve, LLC, provides in pertinent part that "the business and affairs of the
17 Company shall be managed by its Members. Except as otherwise provided in this
18 Agreement or by the non-waivable provision of the Act, each Member shall have
19 full and complete authority, power and discretion to manage and control the
20 business, affairs and property of the Company and to perform any and all other acts
21
22
23

1 or activities customary or incident to the management of the Company's business."

2 *See* Operating Agreement of Milk River Hunting Preserve, LLC, attached hereto as

3 **Exhibit 16.**

4 DATED this 8th day of August, 2023.

5 CHRISTENSEN FULTON & FILZ, PLLC

6 /s/ Joseph L. Breitenbach

7 Attorneys for Plaintiff

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CERTIFICATE OF SERVICE

I, the undersigned, a representative of the law firm of Christensen, Fulton & Filz, P.L.L.C., hereby certify that I served a true and complete copy of the foregoing **STATEMENT OF UNDIPSUTED FACTS** on the following persons by the following means:

1-6 CM/ECF
_____ Hand Delivery
_____ Mail
_____ Overnight Delivery Service
_____ Fax
_____ E-Mail

1. Clerk, U.S. District Court
2. Benjamin O. Rechtfertig
Hedger Friend, PLLC
2800 Central Ave., Suite C
Billings, MT 59102
3. Lynsey Ross
Mark Steger Smith
U.S. Attorney's Office
2601 2nd Ave. North, Suite 3200
Billings, MT 59101
4. Chris McConnell
Kirsten Madsen
Commissioner of Securities & Insurance
Office of the Montana State Auditor
840 Helena Ave.
Helena, MT 59601
5. Alexander L. Roots
Planalp & Roots, P.C.
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DATE: August 8, 2023

/s/ Joseph L. Breitenbach